

EXECUTIVE ORDER

WHEREAS, Donald W. Agins and Bonnie G. Agins filed a complaint against the City of Tiburon, California on June 16, 1975 in the Marin County, California Superior Court requesting declaratory relief and damages in reverse condemnation, and;

WHEREAS, said relief and damages were requested for the alleged complete destruction of the value of their property due the city's adoption of a zoning ordinance which classified the Agins' land as Residential Planned Development and Open Space Zone, and;

WHEREAS, the Agins appealed the dismissal of their action to the Supreme Court of the State of California, and;

WHEREAS, the Supreme Court of the State of California affirmed said dismissal holding inter alia, that an action in inverse condemnation will not lie for a total destruction of the value of property resulting from a zoning action, and;

WHEREAS, said court further held that the only available remedies are declaratory relief and administrative man-

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~~damus~~, and;

WHEREAS, said Agins appealed their lawsuit to the Supreme Court of the United States, and;

WHEREAS, said Supreme Court of the United States will hear said lawsuit and in particular the question of the applicability of inverse condemnation as a remedy for diminution in the value of land due to zoning, and;

WHEREAS, the law of the State of Colorado as enunciated by the Colorado Court of Appeals in the case of Gold Run, Ltd. v. The Board of County Commissioners and the Regional Planning Commission of Summit County, Colorado, et al., 38 Colo. App. 44, is in agreement with that declared in said Agins case by the Supreme Court of California, and;

WHEREAS, the concern of the State of Colorado to plan and provide orderly growth will be frustrated if owners of land diminished in value by regulation can prevail in actions for damages in inverse condemnation, and;

WHEREAS, the State of California will file an amicus brief in support of the City of Tiburon and the California Supreme Court decision in said Agins case in the Supreme Court of the United States;

NOW, THEREFORE pursuant to C.R.S. 1973, 24-31-101(1)(a) (as amended) I hereby order the attorney general, on behalf of the State of Colorado, to join the State of California

as amicus curiae in the policy section of their brief in
the following lawsuit in which the state is interested.

DONALD W. AGINS and

BONNIE G. AGINS

Appellants

vs.

CITY OF TIBURON

Appellee

October Term 1979

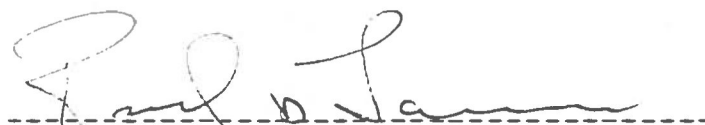
No. 79-602

IN THE SUPREME COURT

OF THE

UNITED STATES

Done in Executive Chambers this 21st day of March,
1980.



RICHARD D. LAMM
Governor

CNR/320/LW